IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 10619 of 2007(L)

PETITIONER:

MRS. CHANDRIKA BALAN,
PUZHAKKADAVIL HOUSE, ARNATTUKARA VILLAGE,
THRISSUR DISTRICT.

BY ADV. SMT.K.G.SAROJINI,
SMT.N.C.SALINI.

RESPONDENTS:
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1. **THE DISTRICT COLLECTOR,**
   THRISSUR.

2. **TAHSILDAR (RR), THRISSUR DISTRICT.**

3. **VILLAGE OFFICER, ARANATTUKARA VILLAGE,**
   THRISSUR DISTRICT.

BY GOVT. PLEADER SRI. BASANT BALAJI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.10619/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE NOTICE ISSUED BY THE TAHSILDAR (RR), PROPOSING TO SELL THE IMMOVABLE PROPERTIES COMPRISED IN SY. NO. 56/6 ALONG WITH BUILDING NO. T.C. 48/120 AND OTHER BUILDINGS, COMPOUND WALL ALONG WITH ALL IMPROVEMENTS.

EXT.P.2: COPY OF THE NOTICE DTD. RR1-296/99 DTD. 24/11/05.

EXT.P.3: COPY OF THE AUCTION NOTICE ISSUED IN FORM NO. 2 PROPOSING TO SELL BUS NO. KL 08 Q 3457.

EXT.P.4: COPY OF THE REQUISITION FILED BY THE PETITIONER ADDRESSED TO THE RESPONDENTS TO CONSIDER HER CLAIM OF OWNERSHIP BEFORE PROCEEDING IN THE AUCTION.

EXT.P.5: COPY OF THE JUDGMENT MADE IN W.P.(C). 365/2006 DTD. 20/02/2006.

EXT.P.6: COPY OF THE PROCEEDINGS OF THE DISTRICT COLLECTOR DTD. 14/03/2006.

EXT.P.7: COPY OF THE DOCUMENT NO. 637/91 DTD. 20/02/1991.

EXT.P.8: COPY OF THE AUCTION NOTICE ISSUED UNDER SCTION 49 (2) OF THE R.R. ACT PROPOSED TO SELL PROPERTY COMPRISED IN SY. NO. 56/6 OF ARANATTUKARA VILLAGE.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.10619 of 2007

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Dated this the 26th day of June, 2007.

JUDGMENT

The petitioner is challenging recovery proceedings for recovery of arrears of abkari dues from petitioner's husband. Arrears cannot be recovered from petitioner's property as petitioner is not the defaulter. However, if petitioner's property is subject to solvency/mortgage or if property is transferred to the petitioner by defaulter-husband, then recovery can be made from such properties. The W.P. is accordingly disposed of directing the second respondent to verify title deeds in respect of immovable properties and documents in respect of movables and to exclude properties which are found to be petitioner's own property, from recovery proceedings. In other words, recovery should be only against properties of the defaulter and properties transferred by him to defeat recovery. If any such transaction is found, the second respondent should consider it's validity, declare it as invalid if it is so and then proceed for recovery.

C.N.RAMACHANDRAN NAIR
Judge

pms